

SENATE HEARINGS ON DEATH WITH DIGNITY

On August 7, the Senate Special Committee on Aging opened hearings on "Death with Dignity," a phrase defined by Chairman Frank Church (D-Idaho) as questioning "the right to prolong life by extraordinary means when all hope for recovery--or in some cases, even for consciousness or lucidity--has vanished." Also present for the hearings were Senators Hiram Fong (R-Hawaii) and Charles Percy (R-Ill.).

Senator Church, in his opening remarks, emphasized that the hearing was not on euthanasia, or mercy killing. The chairman noted that, whereas in the past most Americans died in their own homes, "at least 80% of the population now dies in institutions: hospitals, nursing homes, and other institutions of one kind or another." He said Medicare has been cited for putting too much emphasis on institutionalization of patients, but that the DHEW is now beginning to recognize the need for alternatives to institutionalization. Senator Church concluded his statement saying there are no easy answers to the problems but that public discussion and greater public understanding are necessary.

The first witness, Arthur E. Morgan of Yellow Springs, Ohio, said a right to die exists "when life has lost all evidence of value and has become only a tragic and negative experience." However, he said legislation must be as "effective in protecting life, where circumstances indicate that course as desirable, as in providing for the ending of life where that conclusion is called for."

The second witness was Dr. Elisabeth Kubler-Ross of Flossmoor, Illinois, authority of On Death and Dying. Saying that patients in nursing homes are not prepared for their deaths, Dr. Kubler-Ross made several recommendations to the Committee. She said nurses in intensive care units in hospitals should only be required to work four hours a day so that their care of patients could become more humanized. She recommended changes in the education of medical personnel on the care of dying persons. She also said more emphasis should be put on teaching people that death is a part of life.

Dr. Laurance V. Foye, Jr., of the Veterans Administration, formerly with the National Cancer Institute, was the next witness. Dr. Foye opposed any legislation giving people the "right to die." He said incurability and hopelessness are not synonymous, noting that diabetes, most heart diseases, and even baldness are incurable but rarely hopeless. He said, "Every physician can describe a number of patients for whom he predicted a rapidly fatal outcome and was wrong....We can't be certain of the outcome for any specific patient and dare not authorize or practice euthanasia." Dr. Foye also spoke about the dangers of the "living will," a document in which the patient permits and instructs his physician to let him die if his condition is hopeless. He said relatives, deciding

for any number of reasons that active treatment should be stopped, could attempt to prevent the doctor from continuing his life-saving efforts. Dr. Foye said he has never had a patient ask him to stop treatment in order to speed up the dying process.

The last witness was Dr. Walter W. Sackett of Miami, Florida, a member of the Florida House of Representatives. Dr. Sackett said "Death with Dignity" implies permitting a person to die a natural death without the application of all the heroic modalities known to modern medicine. He has introduced a bill in the Florida Legislature to allow "Death with Dignity." The bill has three parts:

- (1) It would allow a competent person to create a document asking that he be allowed to die under the existence of certain circumstances.
- (2) It would allow a relative of the first degree (a parent, child, sister, brother) to signify to the physician that heroic measures not be applied.
- (3) In the case of an individual with no known relatives or a guardian, it would allow three members of the staff of any recognized hospital to say that an individual's life should not be prolonged by heroic methods.

This proposal elicited much comment from the Committee. Senator Percy particularly objected to the second provision, saying there is a great potential for abuse by greedy relatives.

Present for the second day of hearings were Chairman Church and Senator Fong. Senator Kennedy appeared briefly. The first witness of the day was Dr. William D. Poe, Assistant Professor, Department of Community Health Service, Duke University. Dr. Poe told the Committee, "The physician's functions are often in conflict. To prolong life and to relieve suffering become confused; we sometimes only prolong the act of dying." He suggested that the development of a new specialty of "marantology," to deal with patients who are dying, would be very helpful. Dr. Poe also said there was a need for more and better nursing homes.

Dr. Henry K. Beecher of the Harvard Medical School said that "brain death" should be considered the criteria for death, rather than Black's Law Book definition of death as being the stoppage of circulation and vital function. Dr. Beecher opposed legislation to define death. He felt that lawyers and legislators should not dictate medical treatment. Dr. Beecher also mentioned the recent headlines surrounding the syphilis study begun in Tuskegee in 1932. He questioned Dr. DuVal's statement that under present regulations this could not happen today. Dr. Beecher

said he could give hundreds of examples of abuses in medical research going on today, citing a recent case in San Antonio in which patients were given placebos rather than birth control pills. The Committee did not question Dr. Beecher on this topic.

The next witness was Warren T. Reich, Ph.D., a senior researcher at the Kennedy Center for Bioethics. Dr. Reich told the Committee that ordinarily all reasonable efforts should be made to preserve human life, but that it is not unethical to permit a person to die by not using extraordinary means. He agreed that the definition of "extraordinary" means is difficult. A major obstacle denying an individual the freedom to determine some of the conditions under which he dies is the doctor's creed to do all he can to save life. Dr. Reich said, "The terminal patient may desperately want rest, peace, and dignity, yet he may receive only infusions, transfusions, a heart machine, and a team of experts all busily occupied with his heart rate, his pulmonary function, and his secretions, but not with him as a person."

The final witness of the day was Alexander M. Capron, an assistant professor of law at the University of Pennsylvania. Professor Capron disagreed with Dr. Beecher's suggestion that there was no need for legislation defining death, and called for enactment of State laws to define death in a manner which would better reflect developments of modern medicine.